

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201126485
Issue No.: 1038; 3029
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: April 27, 2011
DHS County: Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on April 27, 2011. Claimant appeared and testified. [REDACTED] appeared on behalf of the Department of Human Services (Department or DHS).

ISSUE

Was the Department correct in taking negative action in Claimant's Family Independence Program (FIP) and Claimant's Food Assistance Program (FAP) cases due to noncompliance with employment and/or work-related activities?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing FIP and FAP recipient.
2. As a recipient of FIP, Claimant was required to participate in employment-related activities.
3. To fulfill this requirement, Claimant was assigned to the Jobs, Education and Training (JET) program.
4. The Department claimed to have issued a Notice of Noncompliance to Claimant, but did not submit said Notice into evidence.

5. The Department closed Claimant's FIP case and decreased Claimant's FAP benefits, effective May 1, 2011, due to noncompliance with employment-related activities.
6. Claimant requested a hearing, protesting the negative action.

CONCLUSIONS OF LAW

FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Program Reference Manual.

FAP is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual, which includes the Reference Tables (RFT).

The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 230A; BEM 233A. All Work Eligible Individuals (WEIs) are required to participate in the development of a Family Self-Sufficiency Plan (FSSP) unless good cause exists. BEM 228. As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency-related activities. BEM 233A. The WEI is considered non-compliant for failing or refusing to appear and participate with the JET Program or other employment service provider. BEM 233A. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A. The first and second occurrences of non-compliance result in a three-month FIP closure. BEM 233A. The third occurrence results in a twelve-month sanction. The goal of The FIP penalty policy is to bring the client into compliance. BEM 233A.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a Notice of Noncompliance (DHS-2444) which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the

penalty duration. BEM 233A. In addition, a triage must be held within the negative action period. BEM 233A.

In the present case, the Department failed to submit into evidence a Notice of Noncompliance, and Claimant stated at the hearing that she did not receive the Notice of Noncompliance. Without such proof that Claimant was given a Notice of Noncompliance and for which dates she was allegedly in noncompliance, I cannot find that Claimant was in fact in noncompliance. BEM 233A. Therefore, the Department was incorrect in taking negative action on Claimant's FIP and FAP cases.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was incorrect in its decision to close Claimant's FIP case and decrease Claimant's FAP benefits and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department reinstate Claimant's FIP case and restore Claimant's FAP benefits, effective May 1, 2011, if Claimant meets all other eligibility factors. Furthermore, the Department is ORDERED to issue Claimant any missed or increased benefits in the form of a supplement.

/s/ _____
Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 11, 2011

Date Mailed: May 11, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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cc:

